

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

March 17, 2011

In the Matter of MCMICKENS-  
NISWONGER/NISWONGER, Minors.

No. 299615  
Ingham Circuit Court  
Family Division  
LC No. 07-001489-NA

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Before: SHAPIRO, P.J., and HOEKSTRA and TALBOT, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). The trial court's decision should be reversed only if clearly erroneous. MCR 3.977(K).

The trial court did not clearly err in finding the statutory grounds for termination proven by clear and convincing evidence. Although respondent was cooperative and "participating fully in services," the trial court noted that this was precisely the position respondent had been in October 2008, when the children were initially returned to her care. Compliance is evidence that a respondent might be able to provide proper care in a reasonable time. *Id.* at 214. However, the respondent must benefit from treatment. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). The trial court found:

And, in fact, back after the first removal, the reports that this Court received were so good that the children again were ultimately returned to her care, but it's what happens next that is critical. The mother failed to protect her children. She lied to the Department of Human Services, this Court, and other professionals about what was happening in her household. [L] was left at risk of sexual abuse from her brother [C]. She engaged in a highly violent domestic relationship with Mr. Shim who happens to be [R]'s dad and was dishonest about it. And that was, in fact, going on in that home and much of what was going on while she was pregnant with [R].

Now, she states that she lied because she didn't want to get in trouble, and I'm sure she didn't want the courts involved in her family any further. I'm sure she didn't want to run the risk of having these children removed back when some

of these things happened. What was the price to pay? In this case it was the mental and physical well-being of her children. That's what was harmed. And quite frankly, after listening to the testimony, I am not sure that the mother understands the harm that occurred to her children based upon those subsequent events.

The trial court also noted that respondent had two psychological evaluations, a year and a half apart, the first of which “produced an abuse score indicating a high probability for the emergence of grossly inappropriate behavior towards children,” and the second of which was “pretty consistent” with the first. The court also found that respondent’s testimony revealed her inability to address important issues on more than a superficial level. Accordingly, the trial court concluded that respondent has not benefitted from the services provided. Because the trial court was in the best position to judge all witnesses’ credibility, *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989), we find no clear error in the trial court’s assessment of the evidence and testimony.<sup>1</sup>

The trial court must also find that termination is in the children’s best interests before it terminates a respondent’s parental rights. MCL 712A.19b(5). Respondent argues that she loves her children and shares a bond with them. A child’s bond with the parent and the years the child spent in the parent’s care are relevant to the best interests analysis. *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App at 89. However, witnesses testified that respondent’s daughter did not treat respondent kindly during visits, was better behaved and felt safer in her relative placement, and did not particularly look forward to visits. Respondent’s son was removed at birth. Further, the children required permanency. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Based on the record, we find no clear error in the trial court’s determination that termination of respondent’s parental rights was in the children’s best interests.

Affirmed.

/s/ Douglas B. Shapiro  
/s/ Joel P. Hoekstra  
/s/ Michael J. Talbot

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<sup>1</sup> We recognize that the youngest child was never in respondent’s care. However, the way a parent treated one child is probative of how she will treat another child. *In re AH*, 245 Mich App 77, 84-85; 627 NW2d 33 (2001).